

REPORT

Of the Committee on Military Affairs, on the claim of John Thomas and Company, with a bill for his relief.

JANUARY 15, 1824.

Read, and, with the bill, committed to a committee of the whole House to-morrow.

The Committee on Military Affairs, to whom was referred the petition and documents of John Thomas, Agent for John Thomas and Company,

REPORT:

That the petitioners state that, in the spring of 1814, they entered into a contract with major William Oliver, special commissary for the 8th military district, for the transportation of one thousand barrels of flour, from Urbana to fort Meigs, at the rate of \$11 50 per barrel. The petitioners further state, that, after much trouble and expense in making perrouges, purchasing and repairing boats, they succeeded in getting the flour all under way, and that, on passing down the Auglaize river, there were taken, at fort Jennings, by Lieut. John Burget, and forcibly detained, ten barrels of flour, for the use of the troops at that post; and, in like manner, and under similar circumstances, there were eleven barrels of flour detained at fort Winchester, by Captain Aston, commandant of that post. The petitioners further state, that the taking and detaining the flour aforesaid, did not diminish the expense of transportation, as they could discharge no hands, nor leave any boats, and that no difficulty existed in the navigation below those points.

The petitioners further represent, that, on settlement with the special commissary, they were allowed nothing for the transportation of the aforesaid twenty-one barrels of flour, but were charged for the same, at the rate of \$9 50 per barrel. It appears, by a letter to the Committee of Claims, from the Third Auditor, on this subject, and which letter was adopted as part of their report, of February 18th, 1822, that, on failure of Orr and Greely, the Government contractors for that year, Piatt and Wallace, entered into a contract with major William Oliver, special commissary, to supply those posts;

and he states further, that, from a quantity of flour at those posts, being condemned as unfit for use, about the same time, there is little doubt that the flour was taken as alleged by the petitioners. In fact, the letter of the Third Auditor goes fully to sustain the facts set forth by the petitioners, and which facts fully justified the officers, in the opinion of your Committee, in the detention of the flour for the use of the troops of the United States, at those posts. It further appears, from the letter of the Third Auditor, that major William Oliver, special commissary as aforesaid, informed the petitioners that they must look to Piatt and Wallace, the failing party, for indemnity for the flour thus taken, and, in this opinion, the Third Auditor appears to concur, thus: in the first place, misdirecting the petitioners as to the manner in which they were to proceed to obtain their demand. From the language of the Third Auditor, it would appear, also, that, if the evidence of such impressment and detention had been forwarded to the proper department of the Government, so that the debit could have been raised against Piatt and Wallace, the amount might have been detained out of the proceeds of their contracts at those posts.

Your Committee cannot agree with the Third Auditor, in the view he has taken of this subject. They believe, in the first place, that it was the duty of the special commissary to have paid the said Thomas and company, for the transportation of the flour thus taken, and to have credited him with the value thereof, as if delivered, and that it was further his duty, together with the officers commanding at those posts, to have certified, to the proper department, the facts as above stated.

Your Committee think, also, that it is neither equitable or right, to refer a man, who has labored honestly in the public service, in a bona fide fulfilment of his contract, for payment, to a failing party, without the means, if they felt fully the disposition, to do justice.

In every view your Committee has been able to take of the subject, they are fully satisfied that the flour was properly detained, and that the promotion of the service, and the comfort of the troops, required such detention; that no blame can be attached to the petitioners, as it appears they faithfully discharged their obligation agreeably to contract; and that, if blame rests any where, it is with the officers of the Government, in neglecting to certify to the proper department the quantity of flour thus detained, so that a regular charge might have been made against the contractors for those posts.

Your Committee are of opinion, that the petitioners are entitled to relief for the flour thus detained, at the rate of \$ 9 50 per barrel, as well as transportation for the same, at \$ 11 50 per barrel, in the whole amounting, for the twenty-one barrels, to \$ 441, and, therefore, ask leave to report a bill.